

IN THE DISTRICT COURT OF THE UNITED STATES

UNITED STATES DISTRICT COURT
Las Cruces, New Mexico
FILED

FOR THE DISTRICT OF NEW MEXICO

JUL - 9 1998

R. Martinez
CLERK

UNITED STATES OF AMERICA,

)

Plaintiff,

)

vs.

)

CRIMINAL NO. 98-184 MV

)

EDUARDO BERNAL,

)

RICARDO MENDEZ, and

)

CAROLINA AYALA-DOMINGUEZ,

)

Defendants.

ORDER CONTINUING TRIAL SETTING

THIS MATTER coming before the Court on the Motion of the United States and the Court being fully informed hereby finds:

1. On July 1, 1998 the Tenth Circuit Court of Appeals filed a decision in United States v. Singleton, (10th Cir. 1998 WL350507, July 1, 1998) having a direct impact on the immediate case;

2. This matter is currently scheduled for trial on July 13, 1998 which does not allow adequate time for the parties to prepare for trial in light of the Singleton decision;

3. 18 U.S.C § 3161(h)(8)(B)(ii) allows for a continuance which is necessary to allow the parties adequate time to prepare for trial in light of a novel question of fact or law;

4. 18 U.S.C § 3161(h)(8)(B)(I) supports a continuance to avoid a "miscarriage of justice" which would arise if this matter proceeds to trial without adequate preparation;

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5. 18 U.S.C § 3161(h)(8)(B)(iv) allows the trial court to consider, in deciding whether to grant a speedy trial waiver, the need for "effective preparation" even if the need for the continuance does not fall into the category of a "novel question of fact or law;"

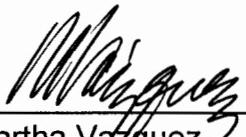
4. The implications of the Singleton decision present a novel issue of law and raise an issue which makes additional time necessary for the parties to effectively prepare for trial, thus avoiding a miscarriage of justice;

5. That the period of delay is excluded in computing the time within which the trial of this matter be commenced;

6. The ends of justice served by the granting of this continuance outweigh the best interests of the public and the defendant in a speedy trial; and

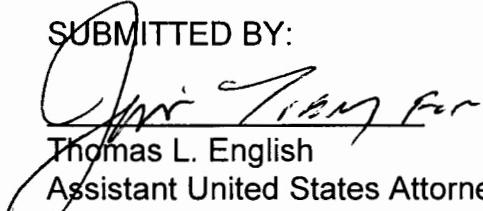
7. The reason for finding that the ends of justice served by the granting of this continuance outweigh the best interests of the public and the defendant in a speedy trial is that all parties need adequate time to assess the impact of the Singleton decision and to prepare for trial.

IT IS ORDERED that this case is vacated from the July 13, 1998 trial docket and will be reset by further order of the Court.



Martha Vazquez
United States District Judge

SUBMITTED BY:



Thomas L. English
Assistant United States Attorney